



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2019-0699; FRL-10006-84-Region 5]**

**Air Plan Approval; Wisconsin; Second Maintenance Plan for 1997  
Ozone NAAQS; Door County, Kewaunee County, Manitowoc County and  
Milwaukee-Racine Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Wisconsin State Implementation Plan (SIP). On December 13, 2019, the Wisconsin Department of Natural Resources (WDNR) submitted the state's plans for maintaining the 1997 ozone National Ambient Air Quality Standard (NAAQS or standard) in the following areas: Kewaunee County, Door County, Manitowoc County, and Milwaukee-Racine area (Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha counties). EPA is proposing to approve these maintenance plans because they provide for the maintenance of the 1997 ozone NAAQS through the end of the second 10-year maintenance period. This action, when finalized, would make certain commitments related to maintenance of the 1997 ozone NAAQS in these areas federally enforceable as part of the Wisconsin SIP.

**DATES:** Written comments must be received at the address below on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R05-OAR-2019-0699 at <https://www.regulations.gov> or via email to [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Emily Crispell, (312) 353-8512, [crispell.emily@epa.gov](mailto:crispell.emily@epa.gov). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Emily Crispell, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8512, [crispell.emily@epa.gov](mailto:crispell.emily@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms “we”, “us”, and “our” refer to EPA.

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**I. Summary of EPA’s Proposed Action**

EPA is proposing to approve, as a revision to the Wisconsin SIP, the 1997 ozone NAAQS maintenance plans for the Door County, Kewaunee County, Manitowoc County, and Milwaukee-Racine areas. The maintenance plans are designed to keep the Kewaunee County area in attainment of the 1997 ozone NAAQS through 2028, the Door County and Manitowoc County areas in attainment through 2030, and the Milwaukee-Racine area in attainment through 2032.

## II. Background

Ground-level ozone is formed when oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOC) react in the presence of sunlight. These two pollutants are referred to as ozone precursors. Scientific evidence indicates that adverse public health effects occur following exposure to ozone.

In 1979, under section 109 of the Clean Air Act (CAA), EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997, EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. 62 FR 38856 (July 18, 1997).<sup>1</sup> EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR

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<sup>1</sup> In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

23857), EPA designated Kewaunee County, Door County, Manitowoc County, and the Milwaukee-Racine area as nonattainment for the 1997 ozone NAAQS, and the designations became effective on June 15, 2004. Under the CAA, states are also required to adopt and submit SIPs to implement, maintain, and enforce the NAAQS in designated nonattainment areas and throughout the state.

When a nonattainment area has three years of complete, certified air quality data that has been determined to attain the 1997 ozone NAAQS, and the area has met other required criteria described in section 107(d)(3)(E) of the CAA, the state can submit to EPA a request to be redesignated to attainment, referred to as a "maintenance area".<sup>2</sup> One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance and such contingency provisions as necessary to assure that violations of the standard will be promptly corrected. At the end of the eighth year after the effective date of the redesignation, the

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<sup>2</sup> Section 107(d)(3)(E) of the CAA sets out the requirements for redesignation. They include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years. CAA section 175A.

EPA has published long-standing guidance for states on developing maintenance plans.<sup>3</sup> The Calcagni Memorandum provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.*, attainment year inventory). See Calcagni Memorandum at 9.

On June 12, 2007, WDNR submitted a request to EPA to redesignate Kewaunee County to attainment for the 1997 ozone NAAQS. This submittal included a plan to maintain the 1997 ozone NAAQS in Kewaunee County through 2018 as a revision to the Wisconsin SIP. EPA approved the Kewaunee County maintenance plan and the state's request to redesignate the area to attainment for the 1997 ozone NAAQS on May 21, 2008 (73 FR 29436).

On September 11, 2009, WDNR submitted a request to redesignate Door County and Manitowoc County to attainment for

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<sup>3</sup> "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the "Calcagni Memorandum").

the 1997 ozone NAAQS. This submittal included a plan to maintain the 1997 ozone NAAQS in Door County and Manitowoc County through 2020 as a revision to the Wisconsin SIP. EPA approved the Door County and Manitowoc County maintenance plans and the state's request to redesignate the areas to attainment for the 1997 ozone NAAQS on July 12, 2010 (75 FR 39635).

On September 11, 2009, WDNR submitted a request to redesignate the Milwaukee-Racine area to attainment for the 1997 ozone NAAQS.<sup>4</sup> This submittal included a plan to maintain the 1997 ozone NAAQS in the Milwaukee-Racine area through 2022 as a revision to the Wisconsin SIP. EPA approved the Milwaukee-Racine area maintenance plan and the state's request to redesignate the area to attainment for the 1997 ozone NAAQS on July 31, 2012 (77 FR 45252).

Under CAA section 175A(b), states must submit a revision to the first maintenance plan eight years after redesignation to provide for maintenance of the NAAQS for ten additional years following the end of the first 10-year period. EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and stated that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.*, maintenance areas) for the 1997 standard no longer needed to

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<sup>4</sup> WDNR supplemented the submittal on November 16, 2011.

submit second 10-year maintenance plans under CAA section 175A(b).<sup>5</sup> In *South Coast Air Quality Management District v. EPA* (South Coast II), the D.C. Circuit vacated EPA's interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for "orphan maintenance areas," i.e., areas designated attainment for the 2008 NAAQS but nonattainment for the 1997 NAAQS. *South Coast*, 882 F.3d 1138 (D.C. Cir. 2018). Thus, states with these "orphan maintenance areas" under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period. Accordingly, on December 13, 2019, WDNR submitted a second maintenance plan which shows attainment of the 1997 ozone NAAQS for: Kewaunee County through 2028; Door County and Manitowoc County through 2030; and the Milwaukee-Racine area through 2032, i.e., through the end of the full 20-year maintenance period for each of the areas.

### **III. EPA's Evaluation of WDNR's SIP Submittal**

#### **A. Second Maintenance Plan**

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the

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<sup>5</sup> See 80 FR 12315 (March 6, 2015).



NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) an attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.

On December 13, 2019, WDNR submitted, as a SIP revision, plans to provide for maintenance of the 1997 ozone standard in: the Kewaunee County area through 2028, the Door County and Manitowoc County areas through 2030, and the Milwaukee-Racine area through 2032, each respectively more than 20 years after the effective date of the redesignation to attainment. As discussed below, EPA proposes to find that WDNR's second maintenance plans include the necessary components and to approve the maintenance plans as revisions to the Wisconsin SIP.

## 1. Attainment Inventory

### a. Kewaunee County

The CAA section 175A maintenance plan approved by EPA for the first 10-year period included an attainment inventory for the Kewaunee County area that reflects typical summer day VOC and NO<sub>x</sub> emissions in 2005. This inventory is summarized in Table 1 below.

**Table 1. Kewaunee County typical summer day VOC and NO<sub>x</sub> emissions for attainment year 2005 in tons per day (tpd)**

Source Category	VOC	NO <sub>x</sub>
Nonroad	1.6	1.7
Onroad	0.6	1.2
Point	0.2	0.01
Area	1.3	0.1
Total	3.7	3.0

In addition, because the Kewaunee County area continued to monitor attainment of the 1997 ozone NAAQS in 2014, this is also an appropriate year to use for an attainment year inventory. WDNR is using 2014 summer day emissions from the EPA 2014 version 7.0 modeling platform as the basis for the attainment inventory presented in Table 2 below.<sup>6</sup> These data are based on the most recently available National Emissions Inventory (2014 NEI version 2).

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<sup>6</sup>The inventory documentation for this platform can be found here: <https://www.epa.gov/air-emissions-modeling/2014-version-70-platform>.

**Table 2. Kewaunee County typical summer day VOC and NO<sub>x</sub> emissions for attainment year 2014 (tpd)**

<b>Source Category</b>	<b>VOC</b>	<b>NO<sub>x</sub></b>
Nonroad	1.01	0.91
Onroad	0.48	0.91
Point	0.16	0.14
Area	0.90	0.65
Total	2.54	2.61

b. Door County and Manitowoc County

The CAA section 175A maintenance plan approved by EPA for the first 10-year period included an attainment inventory for the Door County and Manitowoc County areas that reflects typical summer day VOC and NO<sub>x</sub> emissions in 2007. This inventory is summarized in Table 3 below.

**Table 3. Door County and Manitowoc County typical summer day VOC and NO<sub>x</sub> emissions for attainment year 2007 in tons per day (tpd)**

<b>Source Category</b>	<b>Door County</b>		<b>Manitowoc County</b>	
	<b>VOC</b>	<b>NO<sub>x</sub></b>	<b>VOC</b>	<b>NO<sub>x</sub></b>
Nonroad	8.85	5.28	3.15	3.61
Onroad	0.93	1.97	2.24	5.38
Point	0.30	0.002	1.43	3.13
Area	1.51	0.20	4.39	0.43
Total	11.59	7.452	11.21	12.55

In addition, because the Door County and Manitowoc County areas continued to monitor attainment of the 1997 ozone NAAQS in 2014, this is also an appropriate year to use for an attainment year inventory. WDNR is using 2014 summer day emissions from the EPA 2014 version 7.0 modeling platform as the basis for the

attainment inventory presented in Table 4 below.<sup>7</sup> These data are based on the most recently available National Emissions Inventory (2014 NEI version 2).

**Table 4. Door County and Manitowoc County typical summer day VOC and NO<sub>x</sub> emissions for attainment year 2014 (tpd)**

Source Category	Door County		Manitowoc County	
	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
Nonroad	5.82	3.53	1.91	2.00
Onroad	0.91	1.70	1.78	3.83
Point	0.22	0.02	1.27	2.23
Area	1.17	1.97	3.23	1.74
Total	8.12	7.23	8.2	9.80

c. Milwaukee-Racine Area

The CAA section 175A maintenance plan approved by EPA for the first 10-year period included an attainment inventory for the Milwaukee-Racine area that reflects typical summer day VOC and NO<sub>x</sub> emissions in 2008. This inventory is summarized in Tables 5 and 6 below.

**Table 5. Milwaukee-Racine Area typical summer day VOC and NO<sub>x</sub> emissions for attainment year 2008 in tons per day (tpd)**

Source Category	Milwaukee-Racine Area	
	VOC	NO <sub>x</sub>
Nonroad	50.02	45.34
Onroad	36.35	92.74
Point	12.17	39.16
Area	57.22	14.76
Total	155.76	192.00

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<sup>7</sup>The inventory documentation for this platform can be found here: <https://www.epa.gov/air-emissions-modeling/2014-version-70-platform>.

**Table 6. Milwaukee-Racine Area typical summer day VOC and NO<sub>x</sub> emissions by County for attainment year 2008 (tpd)**

Source Category	Kenosha County		Milwaukee County		Ozaukee County		Racine County		Washington County		Waukesha County	
	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
Nonroad	4.57	3.94	12.90	15.83	2.17	4.66	6.23	4.99	5.39	4.10	18.76	11.82
Onroad	3.05	7.52	16.05	41.68	2.13	5.47	3.51	8.79	2.97	7.62	8.64	21.66
Point	1.33	8.56	5.52	26.91	0.42	0.73	1.41	1.13	0.49	0.26	3.00	1.57
Area	3.39	0.76	21.19	6.85	3.99	0.89	6.17	1.27	9.97	1.23	12.51	3.76
Total	12.34	20.78	55.66	91.27	8.71	11.75	17.32	16.18	18.82	13.21	42.91	38.81

In addition, because the Milwaukee-Racine area continued to monitor attainment of the 1997 ozone NAAQS in 2014, this is also an appropriate year to use for an attainment year inventory.

WDNR is using 2014 summer day emissions from the EPA 2014 version 7.0 modeling platform as the basis for the attainment inventory presented in Tables 7 and 8 below.<sup>8</sup> These data are based on the most recently available National Emissions Inventory (2014 NEI version 2).

**Table 7. Milwaukee-Racine Area typical summer day VOC and NO<sub>x</sub> emissions for attainment year 2014 (tpd)**

Source Category	Milwaukee-Racine Area	
	VOC	NO <sub>x</sub>
Nonroad	26.87	24.36
Onroad	26.60	55.87
Point	10.33	28.90
Area	53.28	20.97
Total	117.08	130.09

<sup>8</sup>The inventory documentation for this platform can be found here: <https://www.epa.gov/air-emissions-modeling/2014-version-70-platform>.

**Table 8. Milwaukee-Racine Area typical summer day VOC and NO<sub>x</sub> emissions by County for attainment year 2014 (tpd)**

	Kenosha County		Milwaukee County		Ozaukee County		Racine County		Washington County		Waukesha County	
Source Category	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
Nonroad	2.48	2.06	6.72	7.55	1.23	2.94	3.34	2.69	2.96	2.13	10.14	7.00
Onroad	2.33	4.80	11.40	23.70	1.55	3.36	2.57	5.44	2.37	5.49	6.39	13.09
Point	0.53	7.89	5.10	17.66	0.34	0.89	1.20	0.77	0.77	0.39	2.39	1.30
Area	4.29	2.15	24.08	8.30	2.28	1.34	5.71	2.75	4.26	1.72	12.66	4.72
Total	9.63	16.89	47.30	57.20	5.40	8.53	12.81	11.65	10.37	9.72	31.57	26.10

## 2. Maintenance Demonstration

### a. Kewaunee County

WDNR is demonstrating maintenance through 2028 for the Kewaunee County area by showing that future emissions of VOC and NO<sub>x</sub> remain at or below attainment year emission levels. 2028 is an appropriate maintenance year for Kewaunee County because it is more than 10 years beyond the first 10-year maintenance period. The 2028 emissions inventory is projected from the EPA 2011 version 6.3 modeling platform.<sup>9</sup> The relevant inventory scenario names are "2014fd" and "2028el." The 2028 scenario was used in past air quality modeling for the regional haze program. The 2028 summer day emissions inventory for Kewaunee County is summarized in Table 9 below. Table 10 documents changes in NO<sub>x</sub> and VOC emissions in Kewaunee County between 2005, 2014 and 2028.

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<sup>9</sup>The inventory documentation for this platform can be found here: <https://www.epa.gov/air-emissions-modeling/2011-version-63-platform>.

**Table 9. Kewaunee County typical summer day VOC and NO<sub>x</sub> emissions for maintenance year 2028 (tpd)**

Source Category	VOC	NO <sub>x</sub>
Nonroad	0.47	0.49
Onroad	0.14	0.19
Point	0.18	0.11
Area	1.00	0.10
Total	1.78	0.89

**Table 10. Change in typical summer day VOC and NO<sub>x</sub> emissions in Kewaunee County between 2005, 2014, and 2028 (tpd)**

Source Category	VOC					NO <sub>x</sub>				
	2005	2014	2028	Net Change (2005-2028)	Net Change (2014-2028)	2005	2014	2028	Net Change (2005-2028)	Net Change (2014-2028)
Nonroad	1.6	1.01	0.47	-1.13	-0.54	1.7	0.91	0.49	-1.21	-0.42
Onroad	0.6	0.48	0.14	-0.46	-0.34	1.2	0.91	0.19	-1.01	-0.72
Point	0.2	0.16	0.18	-0.02	0.02	0.01	0.14	0.11	0.1	-0.03
Area	1.3	0.90	1.00	-0.3	0.1	0.1	0.65	0.10	0	-0.55
Total	3.7	2.54	1.78	-1.92	-0.76	3.0	2.61	0.89	-2.11	-1.72

In summary, the maintenance demonstration for the Kewaunee County area shows maintenance of the 1997 ozone standard by providing emissions information to support the demonstration that future emissions of NO<sub>x</sub> and VOC will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls. Table 10 shows that VOC and NO<sub>x</sub> emissions in Kewaunee County are projected to decrease by 0.76 tpd and 1.72 tpd, respectively, between 2014 and 2028.

b. Door and Manitowoc

WDNR is demonstrating maintenance through 2030 for the Door County and Manitowoc County areas by showing that future emissions of VOC and NO<sub>x</sub> remain at or below attainment year emission levels. 2030 is an appropriate maintenance year for the Door County and Manitowoc County areas because it is more than 10 years beyond the first 10-year maintenance period. The 2030 emissions inventory is projected from the EPA 2011 version 6.3 modeling platform.<sup>10</sup> The relevant inventory scenario names are "2014fd" and "2028el." The 2028 scenario was used in past air quality modeling for the regional haze program. WDNR projected emissions from 2028 to 2030 for the Door County and Manitowoc County areas based on EPA's 2028 emission inventory projections from EPA's 6.3 modeling platform. WDNR projected that emissions for 2030 would remain at 2028 levels for the Door County and Manitowoc County areas. WDNR's approach is conservative as emissions are expected to further decrease from 2028 to 2030 due to decreases in mobile source emissions through continued implementation of vehicle emissions standard and vehicle fleet turn over. The 2030 summer day emissions inventory for the Door County and Manitowoc County areas are summarized in Table 11 below. Tables 12 and 13 document changes

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<sup>10</sup>The inventory documentation for this platform can be found here: <https://www.epa.gov/air-emissions-modeling/2011-version-63-platform>.



in NO<sub>x</sub> and VOC emissions in Door County and Manitowoc County between 2007, 2014 and 2030.

**Table 11. Door County and Manitowoc County typical summer day VOC and NO<sub>x</sub> emissions for maintenance year 2030 (tpd)**

	Door County		Manitowoc County	
Source Category	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
Nonroad	2.70	2.45	1.05	1.10
Onroad	0.28	0.39	0.65	1.39
Point	0.13	0.01	1.46	2.34
Area	1.39	0.25	3.89	0.54
Total	4.50	3.09	7.04	5.36

**Table 12. Change in typical summer day VOC and NO<sub>x</sub> emissions in Door County between 2007, 2014, and 2030 (tpd)**

	Door County									
Source Category	VOC					NO <sub>x</sub>				
	2007	2014	2030	Net Change (2007-2030)	Net Change (2014-2030)	2007	2014	2030	Net Change (2007-2030)	Net Change (2014-2030)
Nonroad	8.85	5.82	2.7	-6.15	-3.12	5.28	3.53	2.45	-2.83	-1.08
Onroad	0.93	0.91	0.28	-0.65	-0.63	1.97	1.7	0.39	-1.58	-1.31
Point	0.3	0.22	0.13	-0.17	-0.09	0.002	0.02	0.01	0.008	-0.01
Area	1.51	1.17	1.39	-0.12	0.22	0.2	1.97	0.25	0.05	-1.72
Total	11.59	8.12	4.5	-7.09	-3.62	7.452	7.23	3.09	-4.362	-4.14

**Table 13. Change in typical summer day VOC and NO<sub>x</sub> emissions in Manitowoc County between 2007, 2014, and 2030 (tpd)**

	Manitowoc County									
Source Category	VOC					NO <sub>x</sub>				
	2007	2014	2030	Net Change (2007-2030)	Net Change (2014-2030)	2007	2014	2030	Net Change (2007-2030)	Net Change (2014-2030)
Nonroad	3.15	1.91	1.05	-2.1	-0.86	3.61	2	1.1	-2.51	-0.9
Onroad	2.24	1.78	0.65	-1.59	-1.13	5.38	3.83	1.39	-3.99	-2.44
Point	1.43	1.27	1.46	0.03	0.19	3.13	2.23	2.34	-0.79	0.11
Area	4.39	3.23	3.89	-0.5	0.66	0.43	1.74	0.54	0.11	-1.2
Total	11.21	8.2	7.04	-4.17	-1.16	12.55	9.8	5.36	-7.19	-4.44

In summary, the maintenance demonstration for the Door County and Manitowoc County areas shows maintenance of the 1997 ozone standard by providing emissions information to support the demonstration that future emissions of NO<sub>x</sub> and VOC will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls. Table 12 shows VOC and NO<sub>x</sub> emissions in Door County are projected to decrease by 3.62 tpd and 4.14 tpd, respectively, between 2014 and 2030. Table 13 shows VOC and NO<sub>x</sub> emissions in Manitowoc County are projected to decrease by 1.16 tpd and 4.44 tpd, respectively, between 2014 and 2030.

c. Milwaukee-Racine Area

WDNR is demonstrating maintenance through 2032 for the Milwaukee-Racine area by showing that future emissions of VOC and NO<sub>x</sub> remain at or below attainment year emission levels. 2032 is an appropriate maintenance year for the Milwaukee-Racine area because it is more than 10 years beyond the first 10-year maintenance period. The 2028 emissions inventory is projected from the EPA 2011 version 6.3 modeling platform.<sup>11</sup> The relevant inventory scenario names are "2014fd" and "2028el." The 2028 scenario was used in past air quality modeling for the regional haze program. WDNR projected emissions from 2028 to 2032 for

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<sup>11</sup>The inventory documentation for this platform can be found here: <https://www.epa.gov/air-emissions-modeling/2011-version-63-platform>.

Milwaukee-Racine area based on EPA's 2028 emission inventory projections from EPA's 6.3 modeling platform. WDNR projected that emissions for 2032 would remain at 2028 levels for Milwaukee-Racine area. WDNR's approach is conservative as emissions are expected to further decrease from 2028 to 2032 due to decreases in mobile source emissions through continued implementation of vehicle emissions standard and vehicle fleet turn over. The 2032 summer day emissions inventory for the Milwaukee-Racine area is summarized in Tables 14 and 15 below. Table 16 documents changes in NO<sub>x</sub> and VOC emissions in the Milwaukee-Racine area between 2008, 2014 and 2032.

**Table 14. Milwaukee-Racine Area typical summer day VOC and NO<sub>x</sub> emissions for maintenance year 2032 (tpd)**

	<b>Milwaukee-Racine Area</b>	
<b>Source Category</b>	<b>VOC</b>	<b>NO<sub>x</sub></b>
Nonroad	18.44	13.93
Onroad	9.98	19.52
Point	9.69	17.80
Area	52.70	15.16
Total	90.81	66.41

**Table 15. Milwaukee-Racine Area typical summer day VOC and NO<sub>x</sub> emissions by County for maintenance year 2032 (tpd)**

	<b>Kenosha County</b>		<b>Milwaukee County</b>		<b>Ozaukee County</b>		<b>Racine County</b>		<b>Washington County</b>		<b>Waukesha County</b>	
<b>Source Category</b>	<b>VOC</b>	<b>NO<sub>x</sub></b>	<b>VOC</b>	<b>NO<sub>x</sub></b>	<b>VOC</b>	<b>NO<sub>x</sub></b>	<b>VOC</b>	<b>NO<sub>x</sub></b>	<b>VOC</b>	<b>NO<sub>x</sub></b>	<b>VOC</b>	<b>NO<sub>x</sub></b>
Nonroad	1.38	1.19	5.93	4.35	1.05	1.35	1.82	1.56	1.95	1.20	6.32	4.28
Onroad	0.86	1.62	3.94	7.90	0.60	1.23	0.94	1.84	1.02	2.07	2.62	4.85
Point	0.57	7.41	4.29	7.66	0.43	0.97	1.15	0.48	0.53	0.14	2.71	1.13
Area	4.80	1.25	23.24	6.79	2.44	0.72	6.61	1.46	4.84	1.26	10.76	3.68
Total	7.62	11.48	37.40	26.70	4.51	4.27	10.52	5.36	8.34	4.66	22.42	13.94

**Table 16. Change in typical summer day VOC and NO<sub>x</sub> emissions in Milwaukee-Racine Area between 2008, 2014, and 2032 (tpd)**

	Milwaukee-Racine Area									
Source Category	VOC					NO <sub>x</sub>				
	2008	2014	2032	Net Change (2008-2032)	Net Change (2014-2032)	2008	2014	2032	Net Change (2008-2032)	Net Change (2014-2032)
Nonroad	50.02	26.87	18.44	-31.58	-8.43	45.34	24.36	13.93	-31.41	-10.43
Onroad	36.35	26.6	9.98	-26.37	-16.62	92.74	55.87	19.52	-73.22	-36.35
Point	12.17	10.33	9.69	-2.48	-0.64	39.16	28.9	17.8	-21.36	-11.1
Area	57.22	53.28	52.7	-4.52	-0.58	14.76	20.97	15.16	0.4	-5.81
Total	155.76	117.08	90.81	-64.95	-26.27	192	130.09	66.41	-125.59	-63.68

In summary, the maintenance demonstration for the Milwaukee-Racine area shows maintenance of the 1997 ozone standard by providing emissions information to support the demonstration that future emissions of NO<sub>x</sub> and VOC will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls. Table 16 shows that VOC and NO<sub>x</sub> emissions in Milwaukee-Racine area are projected to decrease by 26.27 tpd and 63.68 tpd, respectively, between 2014 and 2032.

### 3. Continued Air Quality Monitoring

WDNR commits to continue to operate an approved ozone monitoring network in Kewaunee County, Door County, Manitowoc County and the Milwaukee-Racine area. WDNR commits to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. WDNR

remains obligated to meet monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the Air Quality System (AQS) in accordance with Federal guidelines.

#### 4. Verification of Continued Attainment

WDNR has the legal authority to enforce and implement the requirements of the maintenance plans for Kewaunee County, Door County, Manitowoc County and the Milwaukee-Racine area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. WDNR will continue to operate an approved ozone monitoring network in Kewaunee County, Door County, Manitowoc County and the Milwaukee-Racine area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions to the Wisconsin Monitoring Network Plan approved by EPA.

In addition, to track future levels of emissions, WDNR will continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51,

subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements (AERR) on December 17, 2008 (73 FR 76539).

## 5. Contingency Plan

Section 175A of the CAA requires that the state must adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: the contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and, a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, WDNR has adopted contingency plans for Kewaunee County, Door County, Manitowoc

County and the Milwaukee-Racine area to address possible future ozone air quality problems. The contingency plans adopted by WDNR have two levels of response: a warning level response and an action level response.

In WDNR's plans, a warning level response will be triggered when an annual fourth high monitored value higher than the NAAQS is monitored within the maintenance area. A warning level response will consist of WDNR conducting a study to determine whether the ozone value indicates a trend toward higher ozone values and whether emissions are significantly higher than projected in the maintenance plan. The study will evaluate whether the actual emissions have deviated significantly from the emissions projections contained in the maintenance plan for the nonattainment areas, along with an evaluation of which sectors and states are responsible for any emissions increases. The study will also assess whether unusual meteorological conditions during the high-ozone year led to the high monitored ozone concentrations. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation as well as economic and social impacts. The study findings will be completed no later than the beginning of the following summer ozone control period (May 1). Implementation of necessary controls in

response to a warning level response trigger will follow the procedures for control selection and implementation outlined under the action level response.

In WDNR's plans, an action level response is triggered when a three-year design value exceeding the level of the 1997 ozone NAAQS is monitored within the maintenance area. In the event that the action level is triggered and is not found to be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, WDNR, in conjunction with the metropolitan planning organization or regional council of governments, will determine what additional control measures are needed to ensure future attainment of the ozone standard. Control measures selected will be adopted and implemented within 18 months of the certification of the monitoring data that triggered the action level response. WDNR may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

WDNR included the following list of potential contingency measures in its maintenance plans:

1. Implementation of any federally promulgated rule regulating transport of ozone precursors;



2. Updated Federal NO<sub>x</sub> emission limits for heavy-duty vehicles;
3. Updated (Phase 2) Federal fuel efficiency standards for medium and heavy-duty engines and vehicles;
4. New Federal regulations on the sale of aftermarket catalysts for vehicle catalytic converters;
5. Anti-idling control program for mobile sources, targeting diesel vehicles;
6. Diesel exhaust retrofits;
7. Traffic flow improvements;
8. Park and ride facilities;
9. Rideshare/carpool program;
10. Expansion of the vehicle emissions testing program.

EPA has concluded that the maintenance plans adequately addresses the five basic components of a maintenance plan required under Section 175A of the CAA: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. Thus, EPA proposes to find that the maintenance plans SIP revision submitted by WDNR for Kewaunee County, Door County, Manitowoc County and the Milwaukee-Racine area meet the requirements of section 175A of the CAA.

## B. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as "that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101)."

EPA's current transportation conformity regulation requires a regional emissions analysis only during the time period

beginning one year after a nonattainment designation for a particular NAAQS until the effective date of revocation of that NAAQS (40 CFR 93.109(c)). Therefore, pursuant to the conformity regulation, a regional emissions analysis using MVEBs is not required for conformity determinations for the 1997 ozone NAAQS because that NAAQS has been revoked (80 FR 12264). As no regional emissions analysis is required for Kewaunee County, Door County, Manitowoc County or the Milwaukee-Racine area, transportation conformity for the 1997 ozone NAAQS can be demonstrated by a Metropolitan Planning Organization and Department of Transportation for transportation plans and TIPs by showing that the remaining criteria contained in Table 1 in 40 CFR 93.109, and 40 CFR 93.108 have been met.

#### **IV. Proposed Action**

Under sections 110(k) and 175A of the CAA and for the reasons set forth above, EPA is proposing to approve the Kewaunee County, Door County and Manitowoc County, and the Milwaukee-Racine area second maintenance plans for the 1997 Ozone NAAQS, submitted by WDNR on December 13, 2019, as a revision to the Wisconsin SIP. These second maintenance plans are designed to keep the Kewaunee County area in attainment of the 1997 ozone NAAQS through 2028, Door County and Manitowoc County in attainment of the 1997 ozone NAAQS though 2030, and

the Milwaukee-Racine area in attainment of the 1997 ozone NAAQS through 2032.

## **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian

tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 10, 2020.

Cheryl Newton,  
Deputy Regional Administrator, Region 5.

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